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Attorney for Plaintiff, LENETTE BARKER

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

LENETTE BARKER,

Plaintiff,

v.

HIHC, LLC, A California Limited  
Liability Company; COLONY  
CONSOLIDATED, L.P., A Limited  
Partnership, and DOES 1 through 100,  
inclusive

Defendants.

Case No.: 08-CV-01547-LAB-RBB

**PLAINTIFF'S EXPARTE  
APPLICATION TO APPEAR  
TELEPHONICALLY AT EARLY  
NEUTRAL EVALUATION  
CONFERENCE  
& ORDER THEREON**

**ENE HR DATE: September 17, 2008  
ENE HR TIME: 10:00 A.M.  
ENE HR DEPT: CHAMBERS**

**HON. RUBEN B. BROOKS,  
MAGISTRATE JUDGE**

Plaintiff LENETTE BARKER through her attorneys of record hereby applies to this Honorable Court for an order allowing her to appear telephonically at the Early Neutral Evaluation Conference scheduled for September 17, 2008. Plaintiff was misdiagnosed Multiple Sclerosis in 1991. Commencing six years ago, Plaintiff began suffering significant degradation in her health including developing skeletal deformities. In particular her pelvis is being pulled up over the bottom three ribs on her right side – a condition that has not been consistent with MS and had not previously been

1 seen except in children with cerebral palsy. Plaintiff no longer leaves her home except  
2 for medical appointments. In the past years Plaintiff has had to travel to San Diego  
3 from her home in Corona on two occasions to be seen by physicians specializing in the  
4 treatment of cerebral palsy. Plaintiff stayed at Defendants' hotel during one of these  
5 medical visits to San Diego.

6 It would be a great physical hardship for Plaintiff to have to commute to San  
7 Diego – a commute of nearly 200 miles roundtrip and taking nearly four hours or more  
8 depending on traffic to attend the Early Neutral Evaluation Conference. Plaintiff is no  
9 longer able to travel on her own. As with each of her medical visits, Plaintiff's sister  
10 who lives in California City, California (in the Lancaster/Palmdale area, more than 200  
11 miles from San Diego), would have to pick up Plaintiff at her home in Corona, and  
12 transport her to San Diego and back. Due to the distance to and time of the ENE, the  
13 trip would require an overnight stay at a hotel in San Diego.

14 Plaintiff's counsel has discussed Plaintiff's request to appear telephonically with  
15 counsel for Defendants', Tina I. Mangarpan, Esquire, who indicated that Defendants  
16 would not object to Plaintiff being allowed to appear telephonically, so long as  
17 Defendants could also appear telephonically.

18 Plaintiff, therefore, respectfully requests that this Honorable Court, taking into  
19 consideration her serious health conditions and the great hardship of having to appear  
20 in person, issue an order allow Plaintiff to appear telephonically at the Early Neutral  
21 Evaluation Conference on September 17, 2008. Plaintiff will be available  
22 telephonically at all times during the ENE Conference.

23  
24 Dated: September 8, 2008

CENTER FOR DISABILITY ACCESS, LLP

25  
26 By: 

27 MARK D. POTTER  
28 Attorneys for Plaintiff

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**ORDER**

Having read and considered Plaintiff's Exparte Application to appear telephonically at the Early Neutral Evaluation Conference on September 17, 2008, and finding good cause therefore, Plaintiff is hereby given leave to appear telephonically at said ENE Conference.

**IT IS SO ORDERED**

Dated \_\_\_\_\_ /s/ \_\_\_\_\_

**HONORABLE RUBEN B. BROOKS,  
UNITED STATES MAGISTRATE JUDGE**

**PROOF OF SERVICE**

BARKER V. HIHC, ET AL.

Case #08-CV-01547-LAB-RBB

I, the undersigned, am over the age of eighteen years and am resident of San Diego County, California; I am not a party to the above-entitled action; my business address is 100 East San Marcos Blvd., Suite 400, San Marcos, California, 92069.

On September 8, 2008, I served the following document(s):

**PLAINTIFF'S EXPARTE APPLICATION TO APPEAR TELEPHONICALLY AT  
EARLY NEUTRAL EVALUATION CONFERENCE & ORDER THEREON**

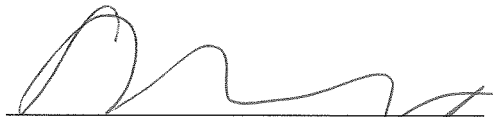
Addressed to:

Tina I. Mangarpan, Esq.  
FORD, WALKER, HAGGERTY & BEHAR  
One World Trade Center, 27<sup>th</sup> Floor  
Long Beach, CA 90831

- ☒ BY MAIL: I caused such envelope with postage thereon fully prepaid to be placed in the United States mail at San Marcos, California.
- ☐ BY FACSIMILE: In addition to the service by mail as set forth above, I forwarded a copy of said documents via facsimile to the listed facsimile number.
- ☐ BY OVERNITE EXPRESS: I caused such envelope with postage thereon fully prepaid to be placed in the Designated Overnight Express drop box at San Marcos, California.
- ☐ BY PERSONAL SERVICE: I caused said documents to be personally served on all listed recipients via Diversified Legal Services.

Executed on September 8, 2008, from San Marcos, California.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

  
Shelby Ramsey